

REMARKS

Claims 26, 32, 33 and 48 are amended. Claims 31 and 51 are cancelled. Claims 56-58 are added. Claims 26-30, 32-37, 48-50 and 52-58 are in the application for consideration.

Claims 1 and 33 stand rejected as being indefinite under § 112. The undersigned presumes the Examiner intended to refer to claims 26 and 33, since claim 1 is not in the application. The assertion made by the Examiner with respect to "at least" has been amended in independent claims 26 and 33. Accordingly, this rejection should be withdrawn.

Applicant disagrees that there is any indefiniteness with respect to the term "received". The claims in this application are structure claims and use of "received" with respect to items is seen to be inherently definite. Further, the words "received" and "formed" are seen to be synonymous and would not seem to in any way change the scope or clarify what is claimed. Further, claim 26 contains four occurrences of "received", while claim 33 contains three occurrences of "received". The Examiner has not clarified or stated whether one or all of these occurrences are allegedly indefinite. Further, the Examiner has not provided any reason why "received" is indefinite, and merely has asserted that such "should be changed". It is requested that this rejection be withdrawn. If the Examiner is to persist, it is requested that rational be provided as to why "received" could be considered indefinite.

The subject matter of dependent claim 31 has been written into independent claim 26. Dependent claim 31 (now essentially independent claim 26) stands rejected as being anticipated by U.S. Patent No. 5,770,499 to Kwok et al. Applicant disagrees and requests reconsideration.

Amended independent claim 26, with cancelled claim 31 subject matter, recites that the capacitor storage node electrodes have topmost surfaces received elevationally proximate the substantially planar outermost surface of the insulative layer. Such is defined to mean within 50 Angstroms of the outermost surface of the insulative layer in Applicant's specification as-filed at p.9, Ins.16, 17. This subject matter is neither expressly disclosed nor impliedly disclosed in the cited Kwok et al. patent. Specifically, col.5, Ins.60-62 and col.6, Ins.14-18 clearly disclose that the thicknesses of layers 170 and 172 in Kwok et al. are effective to provide the outermost surface of layer 72 to be essentially co-planar with the outermost portions of the "final capacitor structure". This is further evident from Fig. 18 of Kwok et al., wherein the outermost level of its capacitor structures are defined by co-planar outermost surfaces of its capacitor dielectric layer 120 and upper electrode 122. However, Applicant's amended claim 31 subject matter is with respect to the topmost surfaces of the capacitor storage node electrodes. The capacitor storage node electrodes 136 as appearing in Fig. 18 are apparently displaced from the outermost surface of layer 172 by an apparent minimum three-times (3X) the thickness of the illustrated capacitor dielectric layer 120. Accordingly, such is not disclosed, nor would be considered by a person of skill in the art, to be within 50 Angstroms of

the outermost surface of insulative layer 172. Accordingly, amended claim 26 (original claim 31) is not anticipated by Kwok et al., and this rejection should be withdrawn. As dependent claim 31 (now independent claim 26), was not properly rejectable under § 102 over the Kwok et al. reference for at least the reasons just stated, any subsequent action involving a claim rejection of independent claim 26 should not be made final.

Regardless, amended independent claim 26 should be allowed, and action to that end is requested. Applicant's claims depending therefrom should also be allowed as depending from an allowable base claim, and for their own features which are neither shown nor suggested in the cited art. For example, with respect to claim 32, such recites that the capacitor storage node electrodes have topmost surfaces which are received elevationally above the substantially planar outermost surface of the insulative layer by less than 50 Angstroms. Clearly, Kwok et al. only teach that their topmost surfaces of their capacitor storage node electrodes are received elevationally below the outer surface of their insulative layer. Accordingly, Kwok et al. specifically teaches against which that Applicant recites in dependent claim 32.

Independent claim 33 has been amended to recite that an oxygen diffusion barrier layer is received over the well base. Independent claim 33 is also amended to recite that the respective storage node containers are received within the insulative layer through the oxidation diffusion barrier layer and through the well base. Such is inherent in Applicant's application as-filed at, for example, in Figs. 11-13 and in the specification at p.11, ln.20

– p.12, ln.6. Accordingly, no new matter is added. Kwok et al. clearly does not disclose such, rather only disclosing a capacitor dielectric layer 120 and not an effective oxygen diffusion barrier layer as Applicant claims. Further, the Kwok et al. storage nodes 136 are not received within its insulative material 170 through an oxygen diffusion barrier layer and through the well base. Accordingly, independent claim 33 recites something which is neither shown nor suggested by Kwok et al. Accordingly, the rejection of claim 33 should be withdrawn, and action to that end is requested.

Added claim 56 claims subject matter which was deleted in the amendment herein in claim 33. Added claims 57 and 58 recite that the memory cell capacitors have an outer cell electrode having a topmost surface which is received elevationally outward of the insulative layer. Such is clearly shown in Applicant's Figs. 12 and 13, for example, with respect to the illustrated outer cell electrode 52.

Applicant's claims depending from claim 33 should be allowed as depending from an allowable base claim, and for their own recited features which are neither shown nor suggested in the cited art. Action to that end is requested.

This application is believed to be in immediate condition for allowance.

Respectfully submitted,

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